

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

KENNETH FLEMING, JOHN DOE, R.K.  
and T.D.

Plaintiff,

v.

THE CORPORATION OF THE  
PRESIDENT OF THE CHURCH OF  
JESUS CHRIST OF LATTER-DAY  
SAINTS, a Utah corporation sole, a/k/a  
"MORMON CHURCH"; LDS SOCIAL  
SERVICES a/k/a LDS FAMILY SERVICES,  
a Utah corporation

Defendant.

NO. 04-2338 RSM

**(PROPOSED)  
ORDER GRANTING  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT ON  
STATUTE OF LIMITATIONS  
GROUNDS (RCW 4.16.340)**

THIS MATTER, having come on regularly before the above-captioned Court upon motion of defendants COP and LDSFS, properly and duly noted pursuant to Fed.R.Civ.P. 56 and CR 7, for an Order on Summary Judgment Dismissing Plaintiffs' Claims due to the running of the applicable statute of limitations (RCW 4.16.340), and the Court having considered the records and files herein, including:

- 1 1. Defendants' Motion for Summary Judgment regarding (1) plaintiffs' claim  
2 based on a failure to report sexual abuse pursuant to RCW 26.44; (2) plaintiff  
3 R.K.'s negligence/special relationship claim for lack of duty; (3) plaintiffs'  
4 claims for equitable estoppel and fraudulent concealment; (4) plaintiffs'  
5 claims for negligent infliction of emotional distress; (5) plaintiff T.D.'s claims  
6 for lack of proven damages; (6) plaintiffs' civil conspiracy claims; (7) plaintiffs'  
7 John Doe and R.K.'s claims for sexual abuse that occurred before first notice  
8 to defendant COP in 1972; (8) plaintiffs' claims for failure to prove proximate  
9 cause of damages caused by defendants' conduct; (9) legal rulings on the  
10 issue of segregation of damages between intentional tortfeasors and  
11 negligent tortfeasors;  
12  
13 2. Defendants' Motion for Summary Judgment on Statute of Limitations  
14 Grounds;  
15  
16 3. Declaration of Marcus B. Nash, with exhibits:  
17  
18 a. A true and correct copy of selected portions of the transcript of the  
19 deposition of plaintiff Robert Kelly taken August 29, 2005.  
20  
21 b. A true and correct copy of selected portions of the transcript of the  
22 deposition of Dorothy L. Kelly taken March 2, 2005.  
23  
24 c. A true and correct copy of selected portions of the transcript of the  
25 deposition of plaintiff Todd Denny taken September 7, 2005.  
26  
27 d. A true and correct copy of selected portions of the transcript of the  
28 deposition of Jon Conte PhD taken October 21, 2005.  
29  
30 e. A true and correct copy of selected portions of the transcript of the  
31 deposition of plaintiff James Allenbach taken July 20, 2005.  
32  
33 f-1 A true and correct copy of a report prepared by Stuart Greenberg PhD  
34 dated September 7, 2005 regarding James Allenbach.  
35  
36 f-2 A true and correct copy of a report prepared by Stuart Greenberg PhD  
37 dated September 7, 2005 regarding Kenneth Fleming.  
38  
39 g. A true and correct copy of selected portions of the transcript of the  
40 deposition of plaintiff Kenneth Fleming taken July 20, 2005.  
41  
42 h. A true and correct copy of selected portions of the transcript of the  
43 deposition of Richard Pettit taken December 13, 2005.

i. A true and correct copy of selected portions of the transcript of the deposition of Fred Denison taken January 4, 2006.

j. A true and correct copy of the recently filed opinion in Melanie H. v. Defendant Doe, et. al., No. 04-1596 (D. So. Cal. Filed December 21, 2005).

4. Defendants' Proposed Orders Granting their Motions for Summary Judgment of Dismissal;

5. Plaintiffs' memoranda in opposition to defendants' Motions for Summary Judgment, if any;

6. Declarations submitted by plaintiffs in opposition to defendants' Motions for Summary Judgment, if any; and

7. Plaintiffs' Proposed Orders Denying Defendants' Motions for Summary Judgment of Dismissal

And the Court having reviewed the records and files herein; having heard the argument of counsel; and deeming itself fully advised in the premises, and the Court finding that the statute of limitations expired prior to the commencement of the subject action by any of the plaintiffs, it is hereby

ORDERED, ADJUDGED, AND DECREED, that Defendants' Motion for Summary Judgments shall be, and hereby are, granted, and plaintiffs' claims shall be, and hereby are dismissed with prejudice.

DONE IN OPEN COURT this \_\_\_\_ day of February, 2006

\_\_\_\_\_  
THE HONORABLE RICARDO S. MARTINEZ

1 Presented by:

2 STAFFORD FREY COOPER

3  
4 By: /s/ Marcus B. Nash via ECF  
Thomas D. Frey, WSBA #1908  
5 Marcus B. Nash, WSBA #14471  
6 Attorneys for Defendants

7  
8 **Copies received; approved as to form;  
Notice of presentation waived:**

9 GORDON, THOMAS, HONEYWELL

10  
11 By: \_\_\_\_\_  
Michael T. Pfau, WSBA No 24649

12  
13 LAW OFFICES OF TIMOTHY D. KOSNOFF

14  
15 By: \_\_\_\_\_  
Timothy D. Kosnoff, WSBA No. 16586

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ORDER GRANTING DEFENDANTS' MOTION  
FOR SUMMARY JUDGMENT RE STATUTE OF  
LIMITATIONS-4

04-2338 RSM  
7566-025226 62064

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**STAFFORD FREY COOPER**

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**Certificate of Service**

I certify that on the date noted below I electronically filed this document entitled with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following persons, in addition to service via hand delivery:

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DATED this 6<sup>th</sup> day of January, 2006, at Seattle, Washington.

/s/Marcus B. Nash via ECF

ORDER GRANTING DEFENDANTS' MOTION  
FOR SUMMARY JUDGMENT RE STATUTE OF  
LIMITATIONS-5

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